HON'BLE SRI JUSTICE GOPALA KRISHNA TAMADA

W.P.No.32901 of 1998

Dated 19th day of June, 2007

Between:

Bheem Reddy ..
Petitioner

And

The District Revenue Officer,
Mahboobnagar District, Mahboobnagar
and four others ..
Respondents

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O R D E R:

This writ petition is filed seeking a mandamus to declare the Proceedings dated 22.9.1998 issued by the 1st respondent as arbitrary and illegal.

The petitioner asserts that he purchased lands in S.Nos.112 and 113 (Old) corresponding to S.Nos.177 and 188 (New) situated in Chinna Nandigama village, by virtue of a registered sale deed dated 16.7.1971 from the father of respondents 2 to 5. In the sale deed executed in the year 1971, old survey numbers were shown, and though resurvey was conducted in the year 1952-53, it was not implemented till 1979-80. It is only after 1979-80, new survey numbers are shown or came into effect. Necessary corrections/amendments were also carried out in the village records as provided for under Section 5 of the A.P. Rights in Land and Pattadar Pass Books Act, 1971 (for brevity "the Act, 1971"). Now, the grievance of the petitioner is that respondent 2 to 5 preferred an appeal, which is not maintainable under Section 158(1) of A.P. (Telangana Area) Land Revenue Act, 1317 Fasli, and the 1st respondent-District Revenue Officer entertained and allowed the appeal by his order dated 22.9.1998 holding that the action of Nizam Jamabandi in implementing the excess areas than what were sold through a registered instrument in old S.Nos.112 and 113 corresponding to new S.Nos.177 and 188, is incorrect, baseless and illegal.

It is mainly contended by the learned counsel for the petitioner that the appeal filed by respondents 2 to 5 under Section 158(1) of A.P. (Telangana Area) Land Revenue Act, 1317 Fasli is not maintainable. Against any action or any orders passed under Section 5 of the A.P.

Rights in Land and Pattadar Pass Books Act, 1971, a regular appeal shall lie to the Revenue Divisional Officer as provided for under Sub-section 5 of Section 5 of the Act, 1971, but not an appeal under Section 158 of the A.P. (Telangana Area) Land Revenue Act, 1317 Fasli. It is the further contention of the learned counsel that the correction/amendment in the revenue records was made as early as in 1982-83 and the appeal was filed after a lapse of about 12 years and the 1st respondent entertained it.

In this context, the learned counsel for the petitioner has also drawn my attention to the judgment of this Court in **M.B.Ratnam Vs. Revenue Divisional Officer**[1], wherein a Division Bench held that an appeal of such nature is not maintainable under Section 158 of A.P. (Telangana Area) Land Revenue Act, 1317 Fasli. At Para 66 of the judgment, the learned Judges held to the following extent:

> *"We have no doubt whatsoever in our mind to hold that the A.P. (T.A.) Land Revenue Act, 1317 Fasli is a general law which deals mainly with land revenue and allied matters whereas the R.O.R. Act not only being a subsequent Act but also being a special law in relation to record of rights shall prevail over the provisions of the A.P. (T.A.) Land Revenue Act, 1317 Fasli. In our considered opinion, the remedy provided under Section 158 of the Land Revenue Act, 1317 Fasli is not available to challenge any order passed by the Mandal Revenue Officer under the provisions of the R.O.R Act. The remedies provided under the R.O.R. Act alone would be available to the aggrieved individual. The contention urged by the learned Counsel for respondents is accordingly rejected. Thus, the appeals preferred by the respondents herein before the first respondent cannot be treated as appeals filed under Section 158 of the Land Revenue Act, 1317 Fasli."*

In the light of the view taken by the Division Bench of this Court in the above cited judgment, this writ petition is allowed and the order dated 22.9.1998 impugned in this writ petition is hereby set aside. No

costs.

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19.06.2007

bcj

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[1] 2003(1) ALD 826 (DB)